

EXHIBIT 40

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNIVERSITAS EDUCATION, LLC,

Case No. 11-1590-LTS-HBP

Plaintiffs.

v.

NOVA GROUP, INC., as trustee,
sponsor and fiduciary of
THE CHARTER OAK TRUST WELFARE
BENEFIT PLAN,

Defendants.

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Volume I

October 19, 2012

New York, New York

Videotaped deposition of DANIEL CARPENTER, taken at the Southern District of New York Courthouse, 500 Pearl Street, New York, New York 10007, on Friday, October 19, 2012, at 10:11 a.m., before Anthony Armstrong, a Certified Court Reporter, Certified Realtime Reporter, Realtime Administrator, and Notary Public of the State of New York.

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1 MR. SIANO: I'm going to advise
2 Mr. Carpenter not to answer that question
3 based upon his rights under the Fifth
4 Amendment of the Constitution of the United
5 States.

6 A. Upon the advice of counsel, I decline
7 to answer that question.

8 BY MS. COLBATH:

9 Q. Do you have any objection to
10 Universitas subpoenaing financial records
11 relating to Audit Indemnity Risk Association,
12 Inc.?

13 MR. SIANO: Could you repeat that
14 entity, please.

15 MS. COLBATH: Audit Indemnity Risk
16 Association, Inc., otherwise known at 100
17 Grist Mill Road as ARIA. A-R-I-A.

18 MR. SIANO: I'm going to advise
19 Mr. Carpenter not to answer your question
20 based upon his rights under the Fifth
21 Amendment to the Constitution of the United
22 States.

23 A. Upon the advice of counsel, I decline
24 to answer that question.

25 BY MS. COLBATH:

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1 Q. Do you have any objection,
2 Mr. Carpenter, to my subpoenaing financial
3 records relating to Birch Hill Partners, LLC?

4 MR. SIANO: I'm going to advise
5 Mr. Carpenter not to answer that question
6 based upon his rights under the Fifth
7 Amendment of the Constitution of the United
8 States.

9 A. Same response, please.

10 BY MS. COLBATH:

11 Q. Describe -- tell me what response you
12 got, if any, to the letter sent to TD Bank which
13 we have marked as Carpenter Exhibit 6.

14 MR. SIANO: I'm going to advise
15 Mr. Carpenter not to answer that question
16 based upon his rights under the Fifth
17 Amendment of the Constitution of the United
18 States.

19 A. Upon the advice of counsel, I'm going
20 to decline to answer that question.

21 BY MS. COLBATH:

22 Q. Do you -- do you or Grist Mill
23 Capital have any intention in complying with the
24 subpoena that you refer to -- strike that.?

25 MR. SIANO: There's no question